



MICHIGAN
HOUSE OF REPRESENTATIVES
P.O. Box 30014
LANSING, MICHIGAN 48909-7514

Minutes of the House Standing Committee
on
Oversight and Ethics

Thursday, May 19, 2016 10:30 a.m. Room 326 House Office Building

The House Standing Committee on Oversight and Ethics was called to order by Representative Ed McBroom, Chair.

The Clerk called the roll; members present were **Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan. (6/6)**

The Clerk announced that a quorum was present.

The Chair laid before the committee the minutes of May 12, 2016.

Representative Theis moved to adopt the minutes of May 12, 2016 as printed. There being no objection the motion prevailed by unanimous consent of the members present; the minutes were adopted as printed.

The Chair laid before the committee the subcommittee's report.

House Oversight and Ethics Committee
Representative Ed McBroom, Chair
Anderson House Office Building

Chair McBroom,

Pursuant to House Rule 34 the House Oversight and Ethics Committee created the Unemployment Reform Subcommittee with the task of reviewing current unemployment practices in Michigan, and making recommendations for reform.

During the Subcommittee's meetings, testimony was offered on behalf of claimants and on behalf of employers who work with the Michigan Unemployment Insurance system, and by the Department.

Following comprehensive review, the committee has recommended the following reforms:

1. The Department must review and make alterations to their forms and communication materials.

2. The Department must offer claimants a meaningful avenue for appeal, including communicating to claimants their right to work with an advocate.
3. The Department shall not utilize MiDAS to make determinations when discrepancies are identified, or to automatically adjudicate a claimant as fraudulent.
4. The Department shall allow claimants and employers a reasonable amount of time to respond to inquiries, fact findings, and any other communications.
5. The Department shall not utilize quarterly income smoothing as a method for income reporting.
6. The statute of limitations for finding fraud by the Department shall be limited to 3 years in all circumstances.
7. The Department shall consider ways to make MiWAM more user friendly for both claimants and employers.
8. The Office of the Auditor General should conduct follow up audits on MiDAS and Claimant Services to ensure identified issues have been resolved.

The Subcommittee has completed its fact finding mission and recommends submitting policy changes to the Unemployment Insurance Agency as well as submitting additional requests for statutory changes.

Representative Joe Graves
Subcommittee Chair

Representative Martin Howrylak

Representative Roger Victory

Representative Rose Mary C. Robinson

**Unemployment Insurance Reform Recommendation
by the
House Oversight Subcommittee**

The Subcommittee, created pursuant to House Rule 34, agrees that Michigan's Unemployment Insurance system is in need of refinement. Policy and statutory changes to the system should include, but not be limited to, the following:

1. The comprehensive overhaul of Department communications with claimants and employers. This includes refining forms, such as the 1713 fact finding form, and including factual information in communications detailing what constituted a violation or finding by the Department.

- a. The Subcommittee heard ample testimony from stakeholders featuring their frustration with the quality of communications from the Department. Individuals testified that information they received was confusing, difficult to respond to and rarely included the necessary factual material to respond meaningfully.
2. The communication by the Department of a claimant's ability to utilize an advocate if one is not made available to them by the state. In addition, the communication should include information on free or low cost legal services available to a claimant for the purpose of defending themselves against allegations of fraud or intentional misrepresentation.
 - a. The Subcommittee heard from individual claimant attorneys about their concerns with how the current advocacy service works. Individuals who are adjudicated fraudulent or as intentionally misrepresenting themselves don't have access to the advocacy service. Ensuring that individuals know what their options are helps protect them; at the very least communication should include information on how to hire an advocate to help claimants navigate the system.
3. The alteration of state law to require the Department to utilize human review for any instance where a discrepancy has been identified. Requiring human review will ensure that individuals are not automatically adjudicated as fraudulent.
 - a. The Subcommittee heard testimony on the rampant problems with the Department's use of MiDAS to identify and adjudicate fraud. This testimony highlighted the problems revealed by the Office of the Auditor General's report on MiDAS and reiterated the need to codify a prohibition on using a computerized system for work that a human needs to do. MiDAS fails to recognize discrepancy nuance that a human can easily identify and follow up on to remedy.
4. The Department shall review their required response times for return of information from claimants and employers. While the federal timeliness requirements are important to maintain state compliance, extending the timeline by 2-3 days would allow employers and claimants the time they need to effectively respond to inquiries.
 - a. The Subcommittee heard from employers and claimants alike that the 10 day timeline for returning documents provides individuals with little ability to gather

necessary information and respond meaningfully. Often, individuals testified, by the time communications arrived the 10 day timeline was nearly expired. Adding in an extra day or two, and requiring the timeline to begin running upon postage date would ensure individuals have enough time to gather information and respond.

5. The Department shall discontinue usage of quarterly smoothing when reporting employee weekly wages. Ensuring that income is reported accurately and for the weeks, it was earned protects employees and employers alike.
 - a. Testimony from individuals who work as claimant's attorneys shared concerns with the Department's use of quarterly income smoothing. Under some circumstances, claimants were seeing their income averaged over a quarter instead of applied distinctly to the week income was earned. This process was cited as a frequent cause of issues with eligibility.
6. The alteration of state law to reduce the amount of time the Department is permitted to go back and find fraud in backlogged claims.
 - a. Testimony from multiple parties highlighted the concern with the Department's extended ability to go back and review claims for improperly paid benefits. The Michigan Employment Security Act allows the Department to review benefits for up to 6 years in certain circumstances. Subcommittee members heard testimony suggesting that the time period is overly extended and works to harm claimants who have long since moved on with their lives.
7. The Department shall consider ways to make the Michigan Web Account Manager (MiWAM) more user friendly, for claimants and employers.
 - a. Subcommittee members heard countless stories of communication difficulties from both employers and claimants. To combat continued communications issues, the Department should consider enhancements to MiWAM that would allow claimants and employers to effectively communicate with UIA.
8. The Office of the Auditor General should conduct follow up audits on MiDAS and Claimant Services to ensure all identified issues are resolved.

- a. Both the MiDAS and Claimant Services audits revealed material findings. Continuing to review these findings and ensure they are being followed will hold the Department accountable.

The Subcommittee recommends that the full committee contemplate these legislative and policy recommendations. Following approval by Oversight and Ethics members, recommended policy changes shall be communicated to the Department in conjunction with a request that the Department report back on changes made. Statutory changes should be discussed by the full committee to ensure that the suggested changes meet the goals of refining the Unemployment Insurance system. In addition, the Subcommittee recommends that Oversight and Ethics committee members consider whether they would be interested in sponsoring their own parts of the statutory recommendations.

Representative Graves, the Chair of the subcommittee, briefed the committee on the subcommittee's process in obtaining the recommendations for the findings.

Representative Graves moved to accept the report from the Unemployment Reform Subcommittee.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The report was accepted.

The Chair laid before the committee House Bills 5469, 5470, 5471, 5472, 5473, 5475, 5476, 5477 and 5478.

HB 5469 (McBroom)	Civil rights; other; legislative open records act (LORA); create as part of the freedom of information act.
HB 5470 (Howrylak)	Civil rights; other; fee for public record search under legislative open records act (LORA); provide for.
HB 5471 (Bizon)	Civil rights; other; access to public record search under legislative open records act (LORA); provide for.
HB 5472 (Barrett)	Public employees and officers; state; designation of legislative open records act (LORA) coordinator; provide for.

HB 5473 (Chatfield)	Civil rights; other; appeal procedure of the legislative open records act (LORA); provide for.
HB 5474 (Rutledge)	Civil rights; other; separation of material exempt from disclosure; provide for.
HB 5475 (Sheppard)	Civil rights; other; disclosure of certain legislative open records; provide exemption.
HB 5476 (Guerra)	Legislature; legislative agencies; deciding appeals of public records requests under the legislative open records act; add to legislative council administrator's duties.
HB 5477 (McBroom)	Civil rights; other; freedom of information act exemptions; modify.
HB 5478 (Moss)	Civil rights; other; governor's office; subject to freedom of information act and designate separate part of act.

The Chair asked Representative Jeremy A. Moss to come forward to answer any further questions on the bill package.

James Clift, Policy Director at the Michigan Environmental Council, submitted a testimony card in support of the bill package, but did not wish to speak.

Kelly C. Miller, State Relations Officer for the Office of the Auditor General, testified on House Bill 5472.

The Chair offered the substitute (H-1) for House Bill 5469.

Representative Howrylak moved to adopt the substitute (H-1) for House Bill 5469.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0)

The substitute was adopted.

Representative Howrylak moved to report House Bill 5469 with the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill and substitute were referred to the full House.

Representative Howrylak moved to report House Bill 5470 without amendment and with the recommendation that the bill pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill was referred to the full House.

Representative Graves moved to report House Bill 5471 without amendment and with the recommendation that the bill pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill was referred to the full House.

Representative Pagan moved to report House Bill 5472 without amendment and with the recommendation that the bill pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill was referred to the full House.

The Chair offered the substitute (H-1) for House Bill 5473.

Representative Howrylak moved to adopt the substitute (H-1) for House Bill 5473.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0)

The substitute was adopted.

Representative Pagan moved to report House Bill 5473 with the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill and substitute were referred to the full House.

Representative Howrylak moved to report House Bill 5474 without amendment and with the recommendation that the bill pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill was referred to the full House.

The Chair offered the substitute (H-1) for House Bill 5475.

Representative Graves moved to adopt the substitute (H-1) for House Bill 5475.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0)

The substitute was adopted.

Representative Howrylak moved to report House Bill 5475 with the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill and substitute were referred to the full House.

Representative Robinson moved to report House Bill 5476 without amendment and with the recommendation that the bill pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan, (6/6)

Nays: None. (0/6)

The bill was referred to the full House.

The Chair offered the substitute (H-3) for House Bill 5477.

Representative Robinson moved to adopt the substitute (H-3) for House Bill 5477.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan,
(6/6)

Nays: None. (0)

The substitute was adopted.

Representative Robinson moved to report House Bill 5477 with the recommendation that the substitute (H-3) be adopted and that the bill then pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan,
(6/6)

Nays: None. (0/6)

The bill and substitute were referred to the full House.

Representative Howrylak moved to report House Bill 5478 without amendment and with the recommendation that the bill pass.

The motion prevailed by an affirmative vote of a majority of the members appointed to and serving on the committee, voting as follows:

Yeas: Representatives McBroom, Howrylak, Graves, Theis, Robinson, and Pagan,
(6/6)

Nays: None. (0/6)

The bill was referred to the full House.

The Chair open the floor for any comments from the committee members and Representative Moss on the bill package.

There being no other business before the committee; **Representative Theis moved to adjourn the meeting.**

The motion prevailed, the time being 11:05 a.m.

The Chair declared the Committee adjourned.

Ed McBroom, Chair
House Standing Committee on Oversight and Ethics

Joy Brewer, Committee Clerk

Date approved by the committee